

## **REMARKS/ARGUMENTS**

Reconsideration of this application is requested. Claims 40-49, 51-53, 56-57, 60-64 and 71-79 are in the case.

### **I. THE INTERVIEW**

At the outset, the undersigned wishes to thank the Examiner (Mr. Figueoa) for confirming, in the telephone interview of May 19, 2010 that the cited Willberg reference (US 7,275,596 B2) is not prior art to the present application. The Examiner is also thanked for confirming in the Interview Summary that applicant need only provide arguments in response to the Harris in view of Sullivan component of the above rejection under this heading.

### **II. AMENDMENTS TO THE CLAIMS**

Claim 40 has been amended by adding the requirement in step (a) that a *viscosifying agent* be incorporated into the drilling fluid. Support for this amendment is provided at page 4, lines 7 to 9; further relevant supporting disclosure is found at page 8, lines 11 to 12, where it is made clear that the viscosifying agents originate from the drilling fluid.

Claim 50, a former dependent claim, has been cancelled and rewritten in independent format as new claim 75. Thus, claim 75 recites all of the features of claim 40, together with the feature of cancelled claim 50.

Claims 65 to 69 have been cancelled, since they are directed to a non-elected invention.

Claims 54, 55, 58, 59 and 70 have been cancelled, since they are directed to non-elected species.

New claims 77 to 80 have been added. These claims recite the features of claims 71 to 74, respectively, but all depend on new independent claim 75. No new matter is entered by these amendments.

### **III. ELECTION/RESTRICTIONS**

Applicant confirms the election of the invention of Group I for further prosecution in this application. As noted above, the non-elected claims 54, 55, 58, 59 and 65 to 70 have been cancelled without prejudice.

### **IV. DOUBLE PATENTING**

In response to the rejection of claims 40 to 47, 49 to 53, 56, 57, 63 and 64 for obviousness-type double patenting over certain claims of co-pending application 10/594,568, and without conceding to the rejection, a terminal disclaimer executed by the undersigned is filed herewith. Withdrawal of this rejection is respectfully requested.

### **V. 35 U.S.C. §103**

Claims 40-53, 56, 57, 60-64 and 71-74 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Harris *et al* in view of Willberg *et al* and Sullivan *et al*. The rejection is respectfully traversed.

In response, and without conceding to the rejection, independent claim 40 has been amended to include the requirement that the drilling fluid should incorporate a

viscosifying agent. That feature serves to further distinguish the claimed invention from the cited references.

In summarizing Harris, the Examiner has concluded that the feature of the present claims which is not disclosed in Harris is the use of a solid polymer, for instance in the form of a bead or fibre. The Examiner then asserts that Sullivan would make it obvious to use Sullivan's lactic/glycolic derivative solid-based materials, which can be in the form of fibres, in the process described in Harris. This position is respectfully traversed.

It is not correct to assert that the sole feature of the present claims which is not disclosed by Harris is the use of solid polymer. The claimed process embodies an entirely different approach to filter cake treatment from that disclosed by Harris. By placing a solid polymer within the filter cake to start with, the claimed process allows filter cake to form which is then self-disrupting *in situ*. In contrast, Harris adopts a more conventional approach involving the external treatment of existing filter cake with an acid formed by hydrolysis of an ester included in the treatment fluid. That treatment fluid is applied after drilling of a well with a different fluid (i.e. a drill-in fluid), where the drilling of the well results in the coincident deposition of a filter cake. The process claimed in the present application involves the use of a single drill-in fluid which deposits a self-cleaning filter cake and does not require the use of a separate treatment fluid.

Neither Harris nor Sullivan deals with drilling. Harris deals with the cleanup of filter cakes from a wellbore following drilling. Sullivan deals with formation fracturing or fracturing combined with gravel packing. It would therefore not have been obvious to

one of ordinary skill, as of the filing date of the present case, to take Harris, directed at cleaning up a pre-existing filter cake using a treatment fluid containing a soluble liquid ester, and combine this with Sullivan which is directed at formation fracturing in order to arrive at the use of an insoluble solid polyester incorporated into the drill-in fluid used to produce the filter cake.

It is further noted that Sullivan requires a base to be added to the carrier fluid in order to dissolve the solid polymer. That is not necessary in the process claimed in the present application, which simply requires the presence of water and does not rely on the use of a base to dissolve the solid polymer.

In view of the above, it is clear that there would have been no motivation for one of ordinary skill to combine Sullivan and Harris and, even such combination had been contemplated (it is believed that would not have occurred), the presently claimed invention would not have resulted or have been rendered obvious thereby, particularly with the requirement that a viscosifying agent be present in the drilling fluid.

The cited art fails to generate a *prima face* case of obviousness of the claimed invention. Withdrawal of the obviousness rejection is respectfully requested.

New independent claim 75 contains all the features of independent claim 40, but includes a further final step which was previously the subject of dependent claim 50. The above arguments as to why the process of claim 40 is not obvious over Harris in view of Sullivan also apply to the process of independent claim 75.

The remaining claims all depend either directly or indirectly, on claims 40 and 75. Since those claims are non-obvious over the cited art, the same applies to all the dependent claims.

**VI. INFORMATION DISCLOSURE STATEMENT**

An Information Disclosure Statement and fee are presented herewith. It is requested that the IDS be entered and considered, and that a signed copy of the IDS be returned to the undersigned with the next paper to issue in this case.

Favorable action is awaited.

Respectfully submitted,

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